

**House Bills on First Reading**

The following bills, received from the House today, were laid before the Senate, read and referred to the committees indicated:

H. B. No. 149, to Committee on Game and Fish.

H. B. No. 98, to Committee on Game and Fish.

H. B. No. 94, to Committee on Game and Fish.

H. B. No. 61, to Committee on State Affairs.

H. B. No. 38, to Committee on Civil Jurisprudence.

H. B. No. 215, to Committee on Game and Fish.

H. B. No. 218, to Committee on Game and Fish.

H. B. No. 225, to Committee on Game and Fish.

H. B. No. 256, to Committee on Game and Fish.

**Adjournment**

On motion of Senator Harris, the Senate at 12:15 o'clock p.m., adjourned until 10:00 o'clock a.m. tomorrow.

**TWENTIETH DAY**

(Tuesday, February 15, 1949)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President pro tempore.

The roll was called and the following Senators were present:

Aikin	Lock
Ashley	Martin
Bell	McDonald
Bracewell	Moffett
Bullock	Moore
Carney	Morris
Corbin	Phillips
Cousins	Proffer
Hardeman	Shofner
Harris	Strauss
Hazlewood	Taylor
Jones	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Weinert
Lane	

**Absent—Excused**

Colson

Hudson

A quorum was announced present.

Reverend Frank Luker, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal approved.

**Leaves of Absence Granted**

Senator Colson was granted leave of absence for today on account of important business on motion of Senator Aikin.

Senator Hudson was granted leave of absence for today on account of important business on motion of Senator Strauss.

**At Ease**

On motion of Senator Aikin, the Senate at 10:05 o'clock a.m., agreed to stand at ease subject to the call of the Chair.

The President pro tempore called the Senate to order at 10:10 o'clock a.m.

**Reports of Standing Committees**

Senator Phillips submitted the following report:

Austin, Texas,  
February 14, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Penitentiaries, to whom was referred Senate Bill No. 35, have had same under consideration and beg to report it back to the Senate with the recommendations that it do pass and be printed.

PHILLIPS, Chairman.

Senator Taylor submitted the following reports:

Austin, Texas,  
February 15, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred S. B. No. 3, have had the same under consideration, and I am instructed to report it back to the Senate, with the recommendation that it do not pass,

but the Committee Substitute do pass in lieu thereof.

TAYLOR, Chairman.

C. S. S. B. No. 3 was read first time.

Austin, Texas,  
February 15, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred S. B. No. 213, have had the same under consideration, and I am instructed to report it back to the Senate, with the recommendation that it do pass.

TAYLOR, Chairman.

Austin, Texas,  
February 15, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred S. B. No. 203, have had the same under consideration, and I am instructed to report it back to the Senate, with the recommendation that it do pass.

TAYLOR, Chairman.

Austin, Texas,  
February 15, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred S. B. No. 39, have had the same under consideration, and I am instructed to report it back to the Senate, with the recommendation that it do pass.

TAYLOR, Chairman.

Austin, Texas,  
February 15, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred S. B. No. 10, have had the same under consideration, and I am instructed to report it back to the Senate, with the recommendation that it do not pass, but the Committee Substitute do pass in lieu thereof.

TAYLOR, Chairman.

C. S. S. B. No. 10 was read first time.

Senator Lane submitted the following reports:

Austin, Texas,  
February 15, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred Senate Bill No. 214, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

LANE, Chairman.

Austin, Texas,  
February 15, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred Senate Bill No. 205, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass as amended.

LANE, Chairman.

Austin, Texas,  
February 15, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred Senate Bill No. 190, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

LANE, Chairman.

Austin, Texas,  
February 15, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred Senate Bill No. 36, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass as amended.

LANE, Chairman.

Austin, Texas,  
February 15, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred Senate Bill No. 158, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

LANE, Chairman.

**Senate Bills on First Reading**

The following bills were introduced, read severally first time, and referred to the committees indicated:

By Senator Bracewell:

S. B. No. 241, A bill to be entitled "An Act making an emergency appropriation out of the State Highway Fund for the operation of the Texas Highway Patrol Division of the Department of Public Safety; and declaring an emergency."

To Committee on Finance.

By Senator Carney:

S. B. No. 242, A bill to be entitled "An Act making appropriation for an increase in salaries of Briefing Attorneys to the Supreme Court for the period beginning with the effective date of this Act and ending on August 31, 1949; and declaring an emergency."

To Committee on Finance.

**Senate Concurrent Resolution 17**

Senator Moore offered the following resolution:

S. C. R. No. 17, Expressing appreciation to the Republic of Guatemala for the honor conferred upon Honorable Edwin J. Kyle.

Whereas, Honorable Edwin J. Kyle, formerly Dean of the School of Agriculture in the Texas Agricultural and Mechanical College, and a highly esteemed and valuable citizen of this State, was appointed by the President of the United States to the office of Ambassador to the Republic of Guatemala in which office he rendered valuable services to his country and also to the citizens of Guatemala, and recently retired and returned to his home State of Texas; and

Whereas, His Excellency, Juan Jose Arevalo, President of the Republic of Guatemala, has bestowed that country's highest decoration, the Order of Qetzal, upon Dean Kyle, which will be presented to him in person on his visit to Guatemala on February 22, 1949; and

Whereas, we are proud of the accomplishments of Dean Kyle, and of the honor so graciously bestowed upon him; now, therefore, be it

Resolved, By the State Senate of the State of Texas, the House of Representatives concurring, That the Legislature express on the part of the citizens of the State of Texas their

appreciation of the honor conferred upon Dean Kyle by His Excellency, Juan Jose Arevalo, and that a copy of this resolution and a cablegram be sent by the Legislature to His Excellency expressing appreciation by the people of Texas for his generous action, as follows:

To His Excellency, Juan Jose Arevalo  
President of the Republic of  
Guatemala

Guatemala City, Guatemala

Please accept thanks and expression of appreciation by the people of the State of Texas for the honor bestowed by you upon our beloved Dean Kyle. We are pleased that he will have further honor bestowed upon him while on a visit to your wonderful country.

THE LEGISLATURE OF TEXAS

Allan Shivers, Lieutenant  
Governor

President of the State Senate  
Durwood Manford, Speaker of the  
House of Representatives.

The resolution was read.

On motion of Senator Moore and by unanimous consent, the resolution was considered immediately and was adopted.

**Committee Substitute Senate Bill 3  
Set as Special Order**

Senator Phillips moved that Senate Bill No. 3 be set as a special order for Monday, February 21, 1949, immediately following the morning call.

The motion prevailed by the following votes:

Yeas—28

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	McDonald
Bullock	Moore
Carney	Morris
Corbin	Phillips
Cousins	Proffer
Hardeman	Shofner
Harris	Strauss
Hazlewood	Taylor
Jones	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Weinert

Absent

Moffett

Absent—Excused

Colson

Hudson

**Message from the House**

Hall of the House of Representatives,  
Austin, Texas,  
February 14, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 67, A bill to be entitled "An Act validating certain independent school districts which have been redefined by county boards of trustees; validating such orders passed by county boards of trustees; validating elections held in such districts to authorize maintenance taxes, assumptions of bonded indebtedness, and the issuance of bonds; enacting other provisions relating to the subject; providing that this act shall not apply to any annexation or consolidation or any bond or tax election the validity of which has been attacked by litigation on the effective date of this act; and declaring an emergency."

S. B. No. 54, A bill to be entitled "An Act validating the creation of Road District No. 4-A of Atascosa County, Texas; validating the election held on July 31, 1948, authorizing the issuance of road bonds; authorizing the issuance of road bonds of Road District No. 4-A without the necessity of compensating other road districts overlapped in part by Road District No. 4-A; and declaring an emergency."

Respectfully submitted,  
CLARENCE JONES,  
Chief Clerk, House of Representatives.

**Committee Substitute  
Senate Bill 115 on Second Reading**

The President pro tempore laid before the Senate, as a special order for this hour, on its second reading and passage to engrossment,

C. S. S. B. No. 115, A bill to be entitled "An Act providing a more efficient method of State administration of the public free schools; creating a Central Education Agency, defining the powers and duties thereof; establishing the component parts thereof, including a State Board of Education, a State Board for Vocational Education, a State Commissioner of Education, and a State Department of Education; providing for the appoint-

ment of a Textbook Committee and a State School Investment Commission, with powers and duties of each defined; amending Article 2669, R. C. S., as amended; providing certain general provisions; terminating and abolishing the present State Board of Education and State Superintendent of Public Instruction; repealing conflicting laws or parts of laws; containing a savings clause, and declaring an emergency."

The bill was read second time.

Senator Strauss moved that further consideration of the bill be postponed until Tuesday, February 22, 1949, immediately following the morning call.

The motion was lost by the following vote:

**Yeas—11**

Ashley	Moore
Bell	Phillips
Corbin	Strauss
Hardeman	Tynan
Jones	Vick
Kelley of Hidalgo	

**Nays—17**

Aikin	Martin
Bracewell	McDonald
Bullock	Moffett
Carney	Morris
Harris	Proffer
Hazlewood	Shofner
Kelly of Tarrant	Taylor
Lane	Weinert
Lock	

**Absent**

Cousins

**Absent—Excused**

Colson

Hudson

Question—Shall the bill be passed to engrossment?

**At Ease**

On motion of Senator Aikin and by unanimous consent, the Senate, at 10:45 o'clock a.m., agreed to stand at ease subject to the call of the Chair, in order that the Members of the Senate might hear an address by Lieutenant Audie Murphy, to be delivered in the Hall of the House of Representatives at 11:00 o'clock a.m. today.

The President pro tempore called the Senate to order at 11:25 o'clock a.m.

**C. S. S. B. 115 on Passage to Engrossment**

The Senate resumed consideration of pending business, same being C. S. S. B. No. 115 on its passage to engrossment.

Question—Shall the bill be passed to engrossment?

Senator Kelley of Hidalgo raised the point of order that there was not a quorum present.

The Secretary was directed to call the roll and the following Senators answered to their names:

Aikin	Kelley of Tarrant
Ashley	Lane
Bracewell	Lock
Bullock	Martin
Carney	McDonald
Corbin	Morris
Cousins	Strauss
Hardeman	Taylor
Harris	Tynan
Hazlewood	Vick
Jones	Weinert
Kelley of Hidalgo	

**Absent**

Bell	Phillips
Moffett	Proffer
Moore	Shofner

**Absent—Excused**

Colson	Hudson
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The President pro tempore announced that there was a quorum present.

Senator Morris offered the following amendment to the bill:

Amend Senate Bill 115, Article VI, page 6, Section 1, line 26, by adding after the word "elect" and before the word "the" the following: "by and with the consent of the Senate".

The amendment was adopted.

Senator McDonald offered the following amendment to the bill:

Amend Senate Bill No. 115, Article II, Section 5, by inserting after the word "thereof" on line 49, page 3 of said bill, the following: "except retirement benefits paid by the State of Texas or the Federal Government".

The amendment was adopted.

Question—Shall the bill be passed to engrossment?

**Motion to Adjourn**

Senator Strauss moved that the Senate adjourn until 10:30 o'clock a.m. tomorrow.

Yeas and nays were demanded.

The motion was lost by the following vote:

**Yeas—13**

Ashley	Moore
Bullock	Phillips
Corbin	Shofner
Hardeman	Strauss
Harris	Tynan
Jones	Vick
Kelley of Hidalgo	

**Nays—14**

Aikin	Martin
Bracewell	McDonald
Carney	Moffett
Cousins	Morris
Kelley of Tarrant	Proffer
Lane	Taylor
Lock	Weinert

**Absent**

Bell	Hazlewood
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**Absent—Excused**

Colson	Hudson
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**Senate Resolution 43**

Senator Kelly of Tarrant offered the following resolution:

Whereas, The Honorable Jesse E. Martin, the distinguished former Senator from Tarrant County, is in the Capitol today; and

Whereas, The Senate is glad to have him visit with us; now therefore, be it

Resolved, That the Senate extend hearty greetings to Senator Jesse Martin—that he be extended the privileges of the floor for today and that he be invited to address the Senate at this time.

The resolution was read and was adopted.

Accordingly, the President pro tempore appointed Senators Kelly of Tarrant, Weinert and Carney as a committee to escort Senator Martin to the President's stand.

The President pro tempore presented Senator Kelly of Tarrant who presented Senator Martin to the Senate.

Senator Martin then addressed the Senate briefly.

### Message From the Governor

The President pro tempore laid before the Senate and directed the Secretary to read the following message from the Governor:

Austin, Texas,  
February 15, 1949.

To the Members of the 51st Legislature:

There is no more important or pressing problem deserving our present consideration than that of the Highway and Road Program of Texas.

Since V-J Day, the Texas Highway Department has spent 174 million dollars on highways and local roads in Texas, allocated as follows:

- 60 million dollars to farm and ranch-to-market roads;
- 87 million dollars to primary highways which carry three-fourths of the total traffic in Texas;
- 27 million dollars to urban highways and expressways which relieve highway traffic congestion in municipal areas.

Approximately one-half of these funds accrued from Federal government matching.

It can be expected that during the coming biennium we can continue the meritorious State-Federal balanced program of work on primary highways, urban highways, and secondary roads, expending approximately fifty million dollars per year from sources now in sight.

In addition to the State-Federal program, we also have, as you know, a cooperative plan between the Texas Highway Department and counties for the construction of farm-to-market roads whereby funds are pooled for this purpose. Approximately ten million dollars a year will be spent in this program.

The system of roads operated by the Texas Highway Department consists of approximately 36,000 miles at the present time. Of this amount, approximately 34,000 miles are either paved or financed for paving at the present time.

It is estimated that the State-operated system carries school bus routes to the extent of 30,000 miles on roads that are now paved or financed for paving.

Just before the close of the War, the Congress enacted legislation pro-

viding Federal funds for matching with State funds in financing a farm-to-market road program for 1946, 1947, and 1948.

Since V-J Day, the Texas Highway Department has built more farm-to-market roads than any other state in the Union and probably more than any three states combined.

In 1948, the Congress considered the extension of the post-war Highway Act, and, because most of the States had not been as aggressive as Texas and a few others in keeping this road-building program up to date, it was decided to skip the year 1949 in providing Federal funds. Appropriations were made for 1950 and 1951, but at a figure ten per cent lower than the current Federal contribution.

This action had serious implications for Texas because we had kept up with the schedule and needed more funds for farm-to-market roads and highways in 1949.

Our Highway Commission was able, however, to work out a plan with the Federal government whereby it could continue to build farm-to-market roads in the year 1949 by drawing against the funds available for 1950. This means that the one-year vacation is pushed forward.

I have proposed the appropriation from other State sources of an additional 20 million dollars for rural or farm-to-market roads so that there will be no danger of an interruption in this essential activity.

It has been suggested by some that this could be a one-time appropriation of 20 million dollars from the general revenue of the State.

Another plan, which I think is most meritorious and entirely practical, would be to allot ten million dollars a year from the omnibus clearance fund of the State, as a continuing appropriation to supplement other funds available for rural road building. This would enable the Highway Department to make long-range plans for this type of road and would give the various sections of the State some assurance as to the certainty of obtaining the roads needed.

It occurs to me that an accelerated program of construction of all-weather school bus roads should parallel the plans for an enlarged and improved public school system, as contemplated in the recommendations of the Gilmer-Aikin Committee. On that basis, and as a complementary measure to those far-reaching school reforms, I would

favor a reasonable plan for a continuing rural road program.

So far in this message I have not discussed the contribution which the counties themselves can make to this road-building program, except to mention their participation in the State-county cooperative plan.

The counties of Texas receive approximately 26 million dollars a year for road building and maintenance.

Under the provisions of the Constitutional amendment adopted last year, abolishing the State ad valorem tax for general revenue purposes, the counties may, at their option, collect the 15 million dollars themselves and, after collection expenses and other deductions are made, can have about 11 million dollars more to spend, after 1951, for roads and for flood control.

I have asked the counties of Texas, through their State Association, to tell the 51st Legislature how many miles of all-weather roads they can add to the farm-to-market road system of Texas each year with the 26 or 37 million dollars which they may have available. I think you will need to have this figure in order to plan the entire program on a State-wide basis.

#### Summarizing:

(1) With present funds available, we will have by 1951, 12,700 miles of paved rural or farm-to-market roads built and maintained by the State Highway Department.

(2) If you approve my recommendation that 20 million dollars be allocated from the omnibus clearance fund or in some other manner during the next biennium we can have another 2,500 miles of rural roads to add to the total by the end of the biennium.

(3) By 1951, we will have 26,500 miles of primary roads and urban expressways.

(4) The counties now have approximately 26 million dollars a year available for road purposes and by 1951 may have another 11 million dollars a year to spend likewise.

(5) If a continuing appropriation of \$10,000,000 a year for rural roads is set up, to supplement the efforts of the Highway Department and the local governments in that area, it is my opinion that the needs of this State for farm-to-market roads, including school bus routes, will be met adequately within the next twelve years.

I know full well that the future prosperity, security, and well-being of the State of Texas is definitely entwined with our transportation system and we must proceed as expeditiously as we possibly can to provide the roads which we so vitally need.

In view of the importance of this matter, acting under the authority of Section 5 of Article III of the Constitution, I submit as a subject for emergency legislation the provision of an additional ten million dollars a year to supplement other funds available to the Texas Highway Department for the construction of rural roads in the State of Texas.

Respectfully submitted,

BEAUFORD H. JESTER,  
Governor of Texas

#### Leave of Absence Granted

Senator Bell was granted leave of absence for the balance of the day on account of important business on motion of Senator Proffer.

#### Recess

On motion of Senator Phillips, the Senate at 12:20 o'clock p.m., took recess to 2:30 o'clock p.m. today.

#### Afternoon Session

The Senate met at 2:30 o'clock p.m. and was called to order by the President pro tempore.

#### Message from the House

Hall of the House of Representatives,  
Austin, Texas,  
February 15, 1949.

Hon. Allan Shivers, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills and resolutions:

H. C. R. No. 25, In memory of Reverend D. C. Dove of Dallas, Dallas County, Texas.

H. C. R. No. 26, Providing for a report on feasibility of a recreational lake at Big Spring State Park.

H. B. No. 92, A bill to be entitled "An Act amending Art. 52-160 of the Code of Criminal procedure of the State of Texas by adding a new section to be known as Art. 52-160b; providing for the establishment of a

Criminal Judicial District for Jefferson County, Texas; abolishing the office of County Attorney of Jefferson County; and creating the office of Criminal District Attorney of Jefferson County; providing for the election, tenure of office and prescribing the qualifications, powers, duties, compensation, and expense of said office; providing for the appointment of assistants, investigators, clerk, and stenographers by the Criminal District Attorney of Jefferson County; providing for their compensation, prescribing their powers and duties; providing that the now duly elected and qualified County Attorney shall act and perform the duties of Criminal District Attorney and be known as Criminal District Attorney until the next general election and until his successor shall qualify; providing that, if any part of this Act be held invalid, the remainder shall be valid, repealing all laws in conflict herewith; and declaring an emergency."

H. B. No. 310, A bill to be entitled "An Act providing for the appointment of assistant county attorneys in counties having a population of fifty-one thousand and one (51,001) and not more than sixty thousand (60,000) inhabitants according to the last preceding Federal Census in counties where there is not a district attorney and in counties where the county attorney also performs the duties of district attorney; providing for their compensation; providing for certain reports and applications; providing the provisions of this Act are cumulative of Article 3902, Revised Civil Statutes of Texas, 1925, and declaring an emergency."

Respectfully submitted,  
CLARENCE JONES,  
Chief Clerk, House of Representatives.

#### Senate Resolution 44

Senator Hazlewood offered the following resolution:

Whereas, E. T. Miller, pioneer citizen and one of the most outstanding attorneys of the Texas Panhandle, is now visiting in the City of Austin; and

Whereas, The said E. T. Miller has been prominent in Texas politics for many years, and a life-long loyal member of the Democratic Party, and is now in the Capitol observing the prog-

ress of the Legislature; now, therefore, be it

Resolved, That the said E. T. Miller be granted a cordial welcome by the Senate of Texas, and that he be granted the privileges of the floor for the day.

The resolution was read and was adopted.

#### C. S. S. B. 115 on Passage to Engrossment

The Senate resumed consideration of pending business, same being C. S. S. B. No. 115 on its passage to engrossment.

Question—Shall the bill be passed to engrossment?

Senator Kelley of Hidalgo raised the point of order that there was not a quorum present.

The President pro tempore directed the Secretary to call the roll.

The roll was called and the following Senators answered to their names:

Aikin	McDonald
Ashley	Moffett
Bracewell	Moore
Carney	Morris
Corbin	Phillips
Cousins	Proffer
Hardeman	Shofner
Harris	Strauss
Kelley of Hidalgo	Taylor
Kelly of Tarrant	Tynan
Lane	Vick
Lock	Weinert
Martin	

#### Absent

Bullock	Jones
Hazlewood	

#### Absent—Excused

Bell	Hudson
Colson	

The President pro tempore announced that there was a quorum present.

Senator Bracewell offered the following amendment to the bill:

Amend Committee Substitute for S. B. No. 115 as printed on page 5, line 35, by changing the comma after the word "year" to a period and adding the following in lieu of the words now appearing:



"The State Board of Education may remove books from such recommended list, but the Board shall not place thereon any book not recommended by the State Commissioner nor shall the Board reduce to a single adoption any list for a specific grade or subject in which multiple adoption is recommended by the State Commissioner. Said contracts shall be entered into by the Board of Education."

The amendment was adopted.

Senator Taylor offered the following amendment to the bill:

Amend Committee Substitute for S. B. No. 115, Article III, Section 3, on page 5, line 3, of the printed bill, by adding the following words:

"(8) Execute contracts for the investment of the Permanent School Fund, within the limits of authority granted by the Legislature."

The amendment was adopted.

Senator Kelley of Hidalgo offered the following amendment to the bill:

Amend Senate Bill 115 as follows:

By striking out all of Section 1, Article VI on page 6 thereof and substituting in lieu thereof the following:

"Section 1. There shall be elected at each general election a State Superintendent of Public Instruction who shall hold his office for a term of two (2) years. The Superintendent shall take the official oath and shall perform such duties as may be prescribed by law."

By striking out all of Section 7, Article VI on page 6 thereof and substituting in lieu thereof the following:

"Section 7. When a vacancy occurs by reason of resignation, death or removal, the Governor shall appoint a new Superintendent of Public Instruction to serve until the next general election and until his successor is elected and qualified."

By striking out, on page 8, in lines 5 and 6 thereof, in Section 3 of Article VIII all of the following words:

"and the office of State Superintendent of Public Instruction".

By striking out in line 6, on page 8 of Section 3, Article VIII the word "are", and substituting in lieu thereof the word "is".

By striking out in lines 8 and 9, on page 8 of Section 3, Article VIII

the following words "and as of the date of qualification of the Commissioner of Education respectively."

By striking out in line 56 on page 5, Section 2 of Article V the following words:

"created by this Act".

By striking out in line 9 of page 5, Section 2 of Article IV the following words:

"as hereinafter created".

By striking out the following words: "State Commissioner of Education", "Commissioner of Education", and "Commissioner", wherever such words appear in said bill, and substituting in each instance in lieu thereof the following: "State Superintendent of Public Instruction".

#### Motions to Adjourn

Senator Strauss moved that the Senate adjourn until 10:30 o'clock a.m. tomorrow.

The motion was lost by the following vote:

#### Yeas—10

Ashley	Kelley of Hidalgo
Corbin	Moore
Hardeman	Phillips
Harris	Strauss
Jones	Vick

#### Nays—18

Aikin	Martin
Bracewell	McDonald
Bullock	Moffett
Carney	Morris
Cousins	Proffer
Hazlewood	Shofner
Kelly of Tarrant	Taylor
Lane	Tynan
Lock	Weinert

#### Absent—Excused

Bell	Hudson
Colson	

Pending further discussion of the amendment, by Senator Kelley of Hidalgo, Senator Strauss moved that the Senate adjourn until 10:30 o'clock a.m. tomorrow.

Yeas and nays were demanded.

The motion was lost by the following vote:

#### Yeas—13

Ashley	Hardeman
Corbin	Harris

Jones	Shofner
Kelley of Hidalgo	Strauss
Moffett	Tynan
Moore	Vick
Phillips	

Nays—15

Aikin	Lock
Bracewell	Martin
Bullock	McDonald
Carney	Morris
Cousins	Proffer
Hazlewood	Taylor
Kelly of Tarrant	Weinert
Lane	

Absent—Excused

Bell	Hudson
Colson	

Senator Taylor raised a point of order against further debate by Senator Kelley of Hidalgo on the ground that no member shall speak more than once in any one debate until every member desiring to do so shall have spoken, and that he, Senator Kelley had been recognized three times.

The President pro tempore overruled the point of order, stating that while Senator Kelley had yielded for the motion to adjourn, he had not concluded his initial discussion of the amendment at the time he yielded for the motions to adjourn.

Pending further discussion of the amendment, Senator Cousins occupied the chair temporarily.

(President pro tempore in the Chair)

Senator Phillips raised the point of order that there was not a quorum present.

The President pro tempore directed the Secretary to call the roll.

The roll was called and the following Senators answered to their names:

Aikin	Martin
Ashley	McDonald
Bracewell	Moffett
Bullock	Morris
Carney	Phillips
Cousins	Proffer
Hardeman	Shofner
Harris	Strauss
Jones	Taylor
Kelley of Hidalgo	Tynan
Kelly of Tarrant	Vick
Lane	Weinert
Lock	

Absent

Corbin	Moore
Hazlewood	

Absent—Excused

Bell	Hudson
Colson	

The President pro tempore announced that there was a quorum present.

Pending further discussion of the amendment, Senator Phillips raised the point of order that there was not a quorum present.

The President pro tempore directed the Secretary to call the roll.

The roll was called and the following Senators answered to their names:

Aikin	Lock
Ashley	Martin
Bullock	McDonald
Carney	Morris
Cousins	Phillips
Hardeman	Proffer
Harris	Taylor
Jones	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Weinert
Lane	

Absent

Bracewell	Moore
Corbin	Shofner
Hazlewood	Strauss
Moffett	

Absent—Excused

Bell	Hudson
Colson	

The President pro tempore announced there was a quorum present.

Pending further debate on the amendment, Senator Strauss raised the point of order that there was not a quorum present.

The President pro tempore directed the Secretary to call the roll.

The roll was called and the following Senators answered to their names:

Aikin	Jones
Ashley	Kelley of Hidalgo
Bracewell	Kelly of Tarrant
Bullock	Lane
Carney	Lock
Cousins	Martin
Hardeman	McDonald

Moffett	Taylor
Morris	Tynan
Proffer	Vick
Shofner	Weinert
Strauss	

Absent

Corbin	Moore
Harris	Phillips
Hazlewood	

Absent—Excused

Bell	Hudson
Colson	

The President pro tempore announced that there was a quorum present.

(President in the Chair)

Pending consideration of the amendment, Senator Jones occupied the chair temporarily.

(President in the Chair)

Question—Shall the amendment be adopted?

Senator Taylor moved to table the amendment.

The motion to table prevailed by the following vote:

Yeas—14

Aikin	Lane
Bracewell	Lock
Bullock	Martin
Carney	McDonald
Cousins	Morris
Hazlewood	Proffer
Kelly of Tarrant	Taylor

Nays—10

Corbin	Phillips
Harris	Shofner
Jones	Strauss
Kelley of Hidalgo	Tynan
Moore	Vick

Absent

Moffett

Absent—Excused

Bell	Colson
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Paired

Senator Ashley (present), who would vote no with Senator Hudson (absent), who would vote aye.

Senator Hardeman (present), who would vote no with Senator Weinert (absent), who vote aye.

Senator Kelley of Hidalgo offered the following amendment to the bill:

Amend Committee Substitute for S. B. No. 115 as printed by inserting between Section 1 and Section 2 a new section to be numbered Section 1a to read as follows:

Section 1a. The State Board of Education shall at a regular meeting of said Board of Education, within three (3) years from the effective date of this act and thereafter at succeeding intervals not in excess of the ten (10) years, compare this scholastic population within the districts enumerated in Section 1, and make recommendation to the Legislature at its next regular session to redistrict the state in districts based upon scholastic population therein existent at such intervals.

The amendment was adopted.

Senator Kelley of Hidalgo offered the following amendment to the bill:

Amend S. B. No. 115 as follows:

By striking out on page 2 of line 7 thereof the word "Districts."

By striking out in Article II of said bill on pages 2, 3 and 4 all of Sections 1 through 8 inclusive, and substituting in lieu thereof the following:

"Section 1. There is hereby created the State Board of Education. Said Board shall consist of nine (9) members to be appointed by the Governor with the advice and consent of the Senate. Of the first Board to be appointed, the terms of three (3) members shall expire January 1, 1951; the terms of the next three (3) members shall expire January 1, 1953; and the terms of the remaining three (3) members shall expire January 1, 1955. After the first Board, the term of each member shall be for six (6) years from the date of the respective appointments, and the appointments shall be made and the terms arranged in such manner that three (3) of said members shall retire on the first day of January biennially, and the Governor shall, biennially, on the first day of January, fill such vacancies by the appointment of three (3) members. Each member of said Board shall be a citizen of the State of Texas, at

least thirty (30) years of age, and otherwise qualified to vote; and no member shall, at the time of his appointment, or during the term of his service, be engaged as a professional educator.

Sec. 2. The first meeting of said Board shall be called by the Secretary of State on May 1, 1949, or as soon thereafter as practicable, at which time said Board shall organize, elect a President and other officers, and adopt proper rules for procedure. No meeting of said Board shall be held unless attended by six (6) or more members, which members shall constitute a quorum of said Board for the transaction of all business. The Board shall hold regular meetings in the City of Austin, Texas, on the first Mondays in May, July, September, November, January and March, and it may hold such other meetings as shall be scheduled by it in formal sessions and as shall be called by the President. Members shall receive no salary, but shall be reimbursed for full expenses incurred in attending meetings of the State Board of Education.

"Sec. 3. Any vacancy on said Board shall be filled by appointment by the Governor, and the terms of such members shall continue until their successors are appointed and qualify."

By striking out all of Section 1, Article VI on page 6 thereof and substituting in lieu thereof the following:

"Section 1. There shall be elected at each general election a State Superintendent of Public Instruction who shall hold his office for a term of two (2) years. The Superintendent shall take the official oath and shall perform such duties as may be prescribed by law."

By striking out all of Section 7, Article VI on page 6 thereof and substituting in lieu thereof the following:

"Section 7. When a vacancy occurs by reason of resignation, death or removal, the Governor shall appoint a new Superintendent of Public Instruction to serve until the next general election and until his successor is elected and qualified."

By striking out, on page 8, in lines 5 and 6 thereof, in Section 3 of Article VIII, all of the following words:

"and the office of State Superintendent of Public Instruction."

By striking out in line 6, on page 8 of Section 3, Article VIII, the word "are," and substituting in lieu thereof the word "is."

By striking out in lines 8 and 9, on page 8 of Section 3, Article VIII, the following words "and as of the date of qualification of the Commissioner of Education respectively."

By striking out in line 56 on page 5, Section 2 of Article V, the following words:

"created by this Act."

By striking out in line 9 on page 5, Section 2 of Article IV, the following words:

"as hereinafter created."

By striking out the following words: "State Commissioner of Education," "Commissioner of Education," and "Commissioner," wherever such words appear in said bill, and substituting in each instance in lieu thereof the following: "State Superintendent of Public Instruction."

Senator Morris raised a point of order against the amendment on the ground that it contains certain subject matter identical with the subject matter of an amendment which has been tabled.

The President stated that the amendment was subject to division and sustained the point of order as to that portion of the amendment relative to the election and duties of the State Superintendent.

Senator Taylor moved to table the remaining portion of the amendment relating to the Board of Education.

The motion to table prevailed by the following vote:

Yeas—15

Aikin	McDonald
Carney	Morris
Cousins	Phillips
Hazlewood	Proffer
Kelly of Tarrant	Shofner
Lane	Taylor
Lock	Tynan
Martin	

Nays—9

Bracewell	Kelley of Hidalgo
Bullock	Moore
Corbin	Strauss
Harris	Vick
Jones	

## Absent

Moffett

Absent—Excused

Bell

Colson

## Paired

Senator Hardeman (present), who would vote no with Senator Weinert (absent), who would vote aye.

Senator Ashley (present), who would vote no with Senator Hudson (absent), who would vote aye.

(Wednesday, February 16, 1949)

Senator Harris offered the following amendment to the bill:

Amend C. S. S. B. 115, Art. II, Sec. 2, by striking out the words and figures "On the first Saturday in April, 1949," and substituting the following:

"On the first Tuesday after the first Monday in November A.D., 1950 and every two years thereafter, at such places as may be prescribed by law and as set out in Title 50, Ch. 2, Rev. Civ. Stat. of Texas and amendments thereto."

Senator Taylor moved to table the amendment.

Yeas and nays were demanded.

The motion to table prevailed by the following vote:

## Yeas—15

Aikin	Lock
Bracewell	Martin
Bullock	McDonald
Carney	Morris
Cousins	Proffer
Hazlewood	Taylor
Kelly of Tarrant	Tynan
Lane	

## Nays—8

Corbin	Moore
Harris	Phillips
Jones	Strauss
Kelley of Hidalgo	Vick

## Absent

Moffett	Shofner
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Absent—Excused

Bell	Colson
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## Paired

Senator Hardeman (present), who would vote nay with Senator Weinert (absent), who would vote aye.

Senator Ashley (present), who would vote no with Senator Hudson (absent), who would vote aye.

Senator Corbin offered the following amendment to the bill:

Amend S. B. 115 as follows:

Strike out the enacting clause.

On motion of Senator Taylor the amendment was tabled.

Senator Strauss offered the following amendment to the bill:

Amend S. B. 115, Article VI, Section 2, by adding the following:

Providing however that the present State Superintendent of Public Instruction shall be the person appointed to be the State Commissioner of Education for the term beginning June 1, 1949.

Senator Taylor moved to table the amendment.

The motion to table prevailed by the following vote:

## Yeas—17

Aikin	Lane
Bracewell	Lock
Bullock	Martin
Carney	McDonald
Cousins	Morris
Hardeman	Proffer
Harris	Taylor
Hazlewood	Tynan
Kelly of Tarrant	

## Nays—7

Ashley	Phillips
Corbin	Strauss
Kelley of Hidalgo	Vick
Moore	

## Absent

Jones	Shofner
Moffett	Weinert

Absent—Excused

Bell	Hudson
Colson	

Senator Kelly of Tarrant offered the following amendment to the bill:

Amend Committee Substitute for S. B. 115, in Article II, Section 1, on page 2 of the printed copy of the bill by striking out the word "Dallas", after the word "Tarrant" in line 23 of said page 2 and inserting the word "Dallas" on line 27 of said page 2 following the word "Gregg".

On motion of Senator Taylor, the amendment was tabled.

C. S. S. B. No. 115 was passed to engrossment by the following vote:

## Yeas—16

Aikin	Lane
Bracewell	Lock
Bullock	Martin
Carney	McDonald
Cousins	Morris
Harris	Proffer
Hazlewood	Taylor
Kelly of Tarrant	Tynan

## Nays—6

Corbin	Phillips
Kelley of Hidalgo	Strauss
Moore	Vick

## Absent

Jones	Shofner
Moffett	

## Absent—Excused

Bell	Colson
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## Paired

Senator Hardeman (present), who would vote no with Senator Weinert (absent), who would vote aye.

Senator Ashley (present), who would vote no with Senator Hudson (absent), who would vote aye.

## Message from the Governor

The President laid before the Senate and directed the Secretary to read the following message from the Governor:

Austin, Texas,  
February 15, 1949.

To the Members of the 51st Legislature:

You now have under consideration certain anti-lynching legislation.

On May 21, 1948, in a Report to the People of Texas, I made a formal statement in this regard which I take the liberty of quoting herewith:

"There continues to be much talk about 'Civil rights.' Every good American is for 'civil rights.' Guarantees of certain rights and freedoms are carried in the fundamental law of the land. That fundamental law also sets out very clearly that the States which form this Union are themselves possessed of certain rights. With those rights go attendant responsibilities. My objection to certain projected programs of civil rights lies primarily in the fact that it is proposed by Federal law and Federal authority to step within the boundaries of sovereign states and enforce certain rules of conduct which essentially lie within the authority of these States.

"No person in his right mind condones lynching.

"There is no lynching in Texas. There is one instance on record since 1935 in which a man was taken out of the hands of duly-constituted authority and put to death. That action is not condoned, but the circumstances of that particular case were quite extraordinary. I do not believe there will be a lynching in Texas in the future. But if there should be, it is my solemn pledge to the people of Texas that every agency of law enforcement in this State will be mobilized if necessary to bring the lynchers to justice.

"The existing laws of Texas on the subjects of unlawful assembly and riot, murder and homicide, and the authority given the Governor to take steps up to and including the mobilization of the militia in case of public disaster, riot, or insurrection, or the formation of a dangerous resistance to the enforcement of the law—all of these existing laws of the State give sufficient authority to punish persons for the act of lynching. However, since the precise term of 'lynching' is not mentioned in these statutes, it might be more satisfying to some to have a definite and particular state anti-lynching law on our statute books, and I shall therefore recommend to the 51st Legislature the enactment of such a measure. I insist, however, that this is a matter which the State can and will handle without Federal help or interference."

A bill has been introduced by Representative Isaacks which seems to accomplish the purpose aforementioned and I sincerely hope that the Legislature will see fit to enact it into law.

Under authority of Section 5 of Article III of the Constitution of Texas, I submit this matter as a subject for emergency legislation.

Respectfully submitted,

BEAUFORD H. JESTER,  
Governor of Texas.

**House Bills and Resolution on First Reading**

The following bills and resolution, received from the House today, were read and referred to the committees indicated:

H. B. No. 67, to Committee on Civil Jurisprudence.

H. B. No. 92, to Committee on Judicial Districts.

H. B. No. 310, to Committee on Counties and County Boundaries.

H. C. R. No. 26, to Committee on Rules.

**Adjournment**

Senator Vick moved that the Senate adjourn until 10:00 o'clock a.m. Thursday, February 17, 1949.

Senator Harris moved that the Senate adjourn until 2:00 o'clock p.m. today (Wednesday, February 16, 1949).

Question first recurring on the motion of Senator Vick, it prevailed.

The Senate accordingly, at 2:10 o'clock a.m., adjourned until 10:00 o'clock a.m. Thursday.

In Memory of  
**Mrs. Edwin T. Phillips**

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Senator Kelly of Tarrant offered the following resolution:

(Senate Resolution 42)

Whereas, On the morning of March 11, 1948, the Almighty in His Infinite Wisdom called from us in the fifty-seventh year of her life our beloved and distinguished citizen, Mrs. Edwin T. Phillips of Fort Worth, Texas, a woman of cultural refinement, keen intellect and amazing knowledge, enriched by family ties and by business connections for more than twenty years; who was born Mary Louise Young in Houston, Texas, educated in the public schools of Austin, Texas, and the University of Texas where she met and married the late Edwin T. Phillips of Fort Worth, who predeceased her in 1928 with four sons to rear; and

Whereas, She assumed the dual role of Mother and business woman, joining the Fort Worth Chamber of Commerce Staff in 1932; and

Whereas, She served on the Board of Education of the City of Fort Worth from 1934 to 1941 and contributed greatly to the present unified system of schools; and

Whereas, One of the public schools soon to be constructed in Fort Worth has been designated as the MARY LOUISE PHILLIPS school; and

Whereas, She was signally honored at the Golden Deeds Banquet in 1935 as Fort Worth's most distinguished citizen of 1934; and

Whereas, She served tirelessly as a member of the Board of Regents of Texas State College for Women in Denton from 1941 until her death; and

Whereas, She was a loving Mother to four sons, all of whom served with valor in World War II; and

Whereas, It is the desire of the membership of the Texas Senate to show suitable respect and reverence for such a valuable citizen of the State of Texas; now, therefore, be it

Resolved, That the Senate of the State of Texas extend to the four sons of the late Mrs. Edwin T. Phillips—Edwin T. Phillips, Jr. Jim Phillips, J. Olcott Phillips and David Atlee Philips and their sons, all of Fort Worth, and to her Mother, Mrs. Augusta Ayers Young, and to her sister, Mrs. Robert Taylor of Norfolk, Virginia, its sincerest sympathy for their great loss and the loss to the City of Fort Worth, Tarrant County, the State of Texas and our Nation; that the Secretary of the Senate be directed to send a copy of this resolution to each member of the family; and that when the Senate adjourns today it do so in her honor; that a page be set aside in the Senate Journal in her memory, and that copies of said Journal be sent to the libraries of the Fort Worth Public Schools and to the Texas State College for Women.

The resolution was read and was adopted.